

ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD
MINUTES OF MEETING
July 12, 2006
FLAGSTAFF, ARIZONA

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on July 12, 2006, at the Little America Hotel, located at 2515 E. Butler Avenue, Flagstaff, AZ.

Members Present:

Sheriff Gary Butler, Chairman
Director Dora Schriro
Detective Robert Thompson
Mr. Joseph Duarte
Dr. Michael Polakowski
Chief Patricia Huntsman
Chief Pennie Gillette-Stroud, representing Director Roger Vanderpool
Assistant Chief Andy Anderson, representing Chief Jack Harris
Mr. Tim Black, representing Attorney General Terry Goddard
Sgt. Tamatha Villar
Ms. Wendy Larsen

Members Absent:

Sheriff Clarence Dupnik
Chief Jerry Sheridan

Staff in Attendance:

Bob Forry
Ted Brandon
Steve Jacobs
Lynn Larson
Curt Milam
Gary Maschner
Ed Felix
Hop Bui
Marie Dryer
Rick Watling
Mark Zbojnowicz
Harry Atkins
Dan Elting
Matt Griffis

Mark Yoshimura
Nina O'Connor
Maria Valtierra
Sandy Sierra
Lyle Mann
Tom Hammarstrom

Assistant Attorney General
Diana Stabler

Guest Roster:

Commander Branch, COTA
Director Rod Johnston, CARLOTA
Director Rich Kush, Chandler/Gilbert Community College
Lt. Mark Wesselman, Mesa LETA
Director Patrick Otto, Mohave Regional Police Academy
Captain John Russell, NARTA
Enrique Cantu, AZ Automobile Theft Authority
Leon N. Wilmot, Yuma County S.O.
Chris Vasquez, Pinal County S.O.
Kaye Dickson, Pinal County S.O.
Beverly Ginn, Edward & Ginn, P.C.
Toye Nash, Phoenix P.D.
Steven N. Tucker, Greenlee County S.O.
Chris Amyes, Diplomatic Security with Department of State
Victor Zavala, Gila County S.O.
Tom Melcher
Dave Jordan, Pinal County S.O.
Ken Kimmel, Sierra Vista P.D.
Tom Clinkenbeard, ADOT/MVD
Donna McDaniel, Bihn & McDaniel, P.C.
Jan Madeya, ACIP
Adam Shepherd, Gila County S.O.
Richard Hydro, ASU DPS
John Pickens, ASU P.D.
Anthony Kinsey, ASU P.D.
Ken Janes, Pima County Attorney's Office
John Armer, Gila County S.O.
Jerry Van Winkle, Snowflake/Taylor P.D.
Spencer A. Ison, Snowflake/Taylor town manager
Richard Alvarez, AZ DPS
Eric Ellison, AZ DPS
Dave Hendershott, MCSO
Robert DeVries, Kingman P.D.
Ed Cibbarelli, Central Arizona College
Anthony Daykin, UofA P.D.

J.P. O'Conner, AZ DPS

A. CALL TO ORDER

Chairman Gary Butler convened the meeting at 10:20 a.m.

Executive Director Hammarstrom presented a plaque to Donna Freed for her years of service at AZ POST. Donna was promoted and transferred to the Department of Public Safety.

Director Hammarstrom also presented a plaque to Mark Yoshimura with the AZ RCPI for the excellent job he has done while working with the RCPI.

The following staff members were introduced to the Board: Toye Nash, Harry Atkins, Nina O'Connor, Maria Valtierra and Matt Griffis.

Jerry Van Winkle, the new chief of police for the Snowflake/Taylor Police Department was introduced.

B. CONSENT AGENDA

Approved unanimously, motion made by Tim Black, seconded by Patricia Huntsman.

1. Minutes of the Regular Board meeting, held on May 17, 2006, were approved as written.
2. Minutes of the Charging Board meeting, held on June 21, 2006, were approved as written.
3. Amended minutes of the Regular Board meeting, held on March 15, 2006, were approved as amended.
4. The next scheduled Charging Board meeting is Wednesday, August 16, 2006, at 10:00 a.m. at AZ POST, located at 2643 E. University Drive, Phoenix, AZ.

The next scheduled Regular Board meeting is Wednesday, September 20, 2006, 10 a.m. at AZ POST, located at 2643 E. University Drive, Phoenix, AZ.

5. Ministerial Actions:
 - a. Certification Waivers: LIST ATTACHED TO MINUTES.
 - b. Instructor Certification Renewals: LIST ATTACHED TO MINUTES.
 - c. Training Program Confirmations: LIST ATTACHED TO MINUTES.

6. Income and Expense Statement – January 2006

Funds as of May 1, 2006	\$ 2,427,228.68
CJEF Revenue	715,721.83
Expenditures/Encumbrances	(633,377.41)
Balance for January 31, 2006	\$ 2,509,573.40

C. REGULAR AGENDA

1. ASU Police Department Petition on Behalf of Anthony Kinsey
Applicant Anthony Kinsey, at age 16, injected steroids over a two month period from June to August 1994.

The Arizona State University Police Department is petitioning the Board to determine that the drug usage by applicant Anthony Kinsey was experimental. ASU P.D. further petitions the Board to find that if the steroid use was not experimental, it was nonetheless juvenile indiscretion.

Dr. Polakowski moved to grant the petition for a determination that the pre-employment steroid usage by Anthony Kinsey was juvenile indiscretion, seconded by Sgt. Villar, motion carried unanimously.

2. AZ POST Comprehensive Final Exam Report
Mr. Lynn Larson, AZ POST Certification and Testing Administrator, reported on the new Arizona POST Comprehensive Final Exam (CFE). The CFE was created to provide a valid measurement of a police recruit's initial training and to insure they have met the minimum academic and proficiency training requirements necessary to become a certified peace officer in the state of Arizona per POST rule R13-4-116. All academy recruits at all academy programs will be required to pass the CFE in order to become certified. The CFE program became a mandated requirement effective July 10, 2006.

The fiscal impact upon law enforcement agencies within Arizona should be minimal and certainly within respectable industry standards. The test is not expected to have an adverse impact on the ability of a cadet to meet the minimum standards necessary to become a certified peace officer in Arizona. Based upon the "pilot tests" in Phases I, II, and III at all academy programs statewide, the CFE testing reliability falls well within the .80 which is the industry standard as identified by Dr. Haladyna.

There is no motion required on this item. This is an "information only" documented presented to the Board.

3. Review of the 2006 COTA 360-Hour Basic Correctional Officer Curriculum Proposal

The Correctional Officer Training Academy (COTA) submitted for review a 2006 revision of the COTA 360 hour Basic Correctional Officer Curriculum as required by AZ POST Rule R13-4-205. The training curriculum reflects a couple of adjustments to the previously approved 360 hour curriculum.

Mr. Black made a motion to approve the 2006 Revision of the COTA 360 Hour Basic Correctional Officer Curriculum as presented by COTA for instruction in the Basic Correctional Officer Training Academy. The motion was seconded by Dr. Polakowski and carried unanimously.

4. Lawsuit and Notice of Claim – Information Only

POST has recently been served with two legal actions. The first is a Notice of Claim filed by Michael Napier, P.C. on behalf of Terry Coons who claims to have been injured during a defensive tactics exercise at CARLOTA. He claims negligence by not placing a mat on the floor for the exercise and failure to warn for not notifying the cadet that defensive tactics may be dangerous. He demands \$500,000 for Mr. Coons and \$100,000 for Mrs. Coons for loss of consortium. POST is represented by the Liability Management Section of the Attorney General's Office.

The second case is a law suit filed by MASSEY & FINLEY, P.C. on behalf of Darrin Womble who claims negligence when a firearm was accidentally discharged during a firearms instructor program at MCSO. The injuries claimed are loss of hearing, tinnitus, loss of consortium and severe and grievous emotional distress, pain and suffering. No specific amount of damages is specified in the Complaint. POST is represented by the Liability Management Section of the Attorney General's Office.

This is an "information only" item presented to the Board.

D. LEGISLATIVE UPDATE

Deputy Director Lyle Mann stated there is no significant legislation that impacted AZ POST. The legislature did approve three million dollars for CARLOTA to expand its training.

E. SUMMARY OF CURRENT EVENTS

Director Hammarstrom reported that he has been appointed to the IACP Training Subcommittee.

Director Hammarstrom reported that POST has provided grants to the Phoenix Police Department and the Yavapai County Sheriff's Office for the funding and expansion of driver training tracks for each agency. Each grant was in the amount of \$750,000.

The Leadership in Police Organizations Training is being conducted by RCPI. This training is designed to be the umbrella leadership training program for the state of Arizona. It derives from the WestPoint Leadership Training Program and is an excellent program.

In-Service Remedial Report Writing Training will be conducted in conjunction with Rio Salado Community College. An on-line training program will be considered and POST is looking for 15 agencies to volunteer one to two persons to use to pilot this program.

F. COMMITTEE UPDATE

No report.

G. REPORTS

1. Rules Committee Report

Gerald Richard, Director of the Administrative Support Division of the Phoenix Police Department is the Rules Advisory Committee Chairman. He reported that the Rules Committee met prior to the Board meeting and discussed juvenile indiscretion and the Comprehensive Final Exam. The CLEARs system was also discussed and the committee decided to direct staff to come back with language to consider in implementing a rule change, sometime in the future.

The other three topics discussed were: Failure to cooperate with AZ POST investigation; duty of act when off-duty under specific circumstances; and duty to inform upon knowledge of an AZ POST rule violation. The committee decided to leave these issues status quo.

2. Basic Training

CARLOTA – Director Rod Johnston reported that a class of 33 cadets graduated on May 26, 2006. The next classes will graduate on August 14 and September 11. The Pinal County Sheriff's Office will provide a fulltime sergeant for each class they have from now on. Sgt. Villar is one of those sergeants.

COTA – Commander Branch reported 97 cadets graduated out of 119 cadets. 15 resigned 7 dismissed. 146 presently attending. 2006 started

910 730 graduated. 80.22 % rate. Currently have a plan in place to increase those numbers due to a pay raise granted by the legislature.

Chandler/Gilbert Community College – Director Rich Kush reported there is currently one class in session which will graduate on January 26, 2007. The academy is a 724-hour program, which is equivalent to an 18-week full-time academy. A new class will begin on August 12 and will graduate on June 2, 2007.

Mesa LETA – Lt. Mark Wesselman reported the first academy class graduated 17. There are still 17 in the FTO program and this will be completed on July 24, 2006. The current class started with 44 recruits and has 32 remaining. The next academy class will have 48 recruits and will start on November 6, 2006.

Mohave Regional Police Academy – Director Patrick Otto reported that this is a sponsored academy and currently has ten recruits. The class will graduate on August 3, 2006 in Bullhead City. The next class will start on January 23, 2007.

NARTA – Captain John Russell reported the current class started on January 16, 2006 with 33 cadets and graduated on May 12, 2006, with 31 cadets representing 11 different agencies. The new class will start on August 14, 2006 and will have increase in class size. He thanked POST for the funding provided for the driving track.

SALETC – A letter was sent in by Commander Lane explaining Class 2006-01 graduated 19 officers and deputies on June 8, 2006. Class 2006-02 began on June 19, 2006 with 45 recruits, 39 recruits remain.

3. Department of Corrections – Director Schriro reported that DOC will receive pay increases for starting officers of 22% or \$6810, which will help in bringing officers closer to market.
4. Arizona Regional Community Policing Institute – Sgt. Mark Yoshimura reported on the Leadership and Police Organization Program. The first class will begin September 25, 2006. This class is for lieutenants and above. There are plans for second class to be held in Flagstaff in January or February and a third class to be held in Tucson February or March. One of the goals involves training a minimum of 100 command level people per year. Shortened versions of this class will be offered to sergeants, corporals and FTOs. Due to a decrease in funding, FBI agents will not be assigned to RCPI as previously reported. Sgt. Yoshimura will be leaving RCPI this fall to begin a teaching position at Mesa Community College for the Administration of Justice Program.

- H. FINAL ACTION CASES: Consideration and possible action on the certified status of the following peace officers:

Case #1 – Thomas S. Goff. At the request of Mr. Goff's attorney, this case was continued.

Case #2 – Mark K. Spina. At the request of Mr. Spina's attorney, this case was continued.

Case #3 – Timothy T. Yazzie. The Board considered comments from Assistant A. G. Diana Stabler. Sgt. Villar made a motion to adopt the Consent Agreement Order and Decision and suspend peace officer certification for a period of six months beginning on December 13, 2004 and ending on June 13, 2005, seconded by Chief Huntsman, motion carried unanimously.

Case #4 – Jeffery P. Montei. The Board considered comments from Assistant A. G. Diana Stabler. Sgt. Villar made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Chief Sheridan, motion carried unanimously.

Case #5 – Jessica Strickland. The Board considered comments from Ms. Strickland, Chief Van Winkle, Spencer A. Ison, Snowflake/Taylor town manager, DPS Sgt. Rich Alvarez, DPS Officer Eric Ellison and Assistant A. G. Diana Stabler. Mr. Black made a motion to adopt the Findings of Fact and Conclusions of Law and suspend peace officer certification for the period of July 8, 2005 through August 17, 2005, seconded by Ms. Larsen. After a short discussion, the vote on the motion was 9-1, the motion failed. Chief Huntsman made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Dr. Polakowski, the vote was 5-5, motion failed due to the tie vote. Sgt. Villar made a motion to adopt the Findings of Fact and Conclusions of Law and suspend peace officer certification for a period of two years, effective July 12, 2006, with credit for the time period of July 8, 2005 through August 17, 2005, seconded by Mr. Black, motion carried with three nay notes.

Case #6 – Victor M. Zavala. The Board considered comments from Assistant A.G. Diana Stabler and Donna McDaniel, attorney for Mr. Zavala. Chief Huntsman made a motion to adopt the Findings of Fact and Conclusions of Law and dismiss this case, seconded by Dr. Polakowski, motion carried with one nay vote.

- I. NEW CHARGING CASES: Consideration of Complaints against peace officer certification based upon reports of misconduct pertaining to the following officers:

Case #1 – James R. Beasley. Dr. Polakowski made a motion to close the case with *No Action with Agency Discretion*, seconded by Sgt. Villar, motion carried unanimously.

Case #2 – Benny Boyer. Assistant Chief Andy Anderson recused himself from participation and voting on this case. Sgt. Villar made a motion to *Initiate Proceedings*, seconded by Chief Gillette-Stroud, motion carried unanimously.

Case #3 – Freeman M. Carney. Assistant Chief Andy Anderson recused himself from participation and voting on this case. Sgt. Villar made a motion to close the case with *No Action with Agency Discretion*, seconded by Chief Huntsman, motion carried with one nay vote.

Case #4 – Samuel Carter III. Chief Pennie Gillette-Stroud made a motion to close the case with *No Action with Agency Discretion*, seconded by Mr. Black, motion carried unanimously.

Case #5 – John M. DeStefano. Sgt. Villar made a motion to close the case with *No Action with Agency Discretion*, seconded by Mr. Black, motion carried with one nay vote.

Case #6 – Anthony J. Guinta. Mr. Duarte recused himself from participation and voting on this case. Mr. Black made a motion to *Initiate Proceedings*, seconded by Chief Gillette-Stroud, motion carried unanimously.

Case #7 – Gary D. Lindenmier. Chief Huntsman made a motion to *Initiate Proceedings*, seconded by Mr. Black, motion carried unanimously.

Case #8 – Salvador Lopez. Detective Thompson recused himself from participation and voting on this case. Chief Huntsman made a motion to *Initiate Proceedings*, seconded by Mr. Duarte, motion carried unanimously.

Case #9 – Timothy J. Rawcliffe. Sgt. Villar made a motion to close the case with *No Action with Agency Discretion*, seconded by Chief Gillette-Stroud, motion carried with one nay vote.

Case #10 – Melissa C. Staniscia. Assistant Chief Andy Anderson recused himself from participation and voting on this case. Chief Huntsman made a motion to *Initiate Proceedings*, seconded by Dr. Polakowski, motion carried unanimously.

Case #11 – Maxwell D. Vannatter, Jr. Chief Gillette-Stroud made a motion to close the case with *No Action with Agency Discretion*, seconded by Mr. Duarte, motion carried unanimously.

J. CALL TO THE PUBLIC

Mr. Mike Palmer addressed the Board during the call to public. He read an article from the Arizona Republic dated June 10, 2006, dealing with the Mesa Police Department's probe into internet and e-mail policy violations by some of its employees. He is asking the Board to investigate the two-worst offenders and revoke peace officer certification for unprofessional conduct.

Chief Deputy David Hendershott from the Maricopa County Sheriff's Office addressed the Board on the topic of peace officer integrity, and the importance of consistency in Board decisions in that area.

K. ADJOURN

Chairman Butler adjourned the meeting at 1:00 p.m.

Dated: July 17, 2006

Sandra L. Sierra, Recording Secretary

Minutes approved as written.

Gary Butler, Chairman